7 states standardize mortgage broker rules

Differing laws allows shady operators, Congress may attempt U.S. standard

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WASHINGTON - Seven states on Wednesday launched a standardized and mandatory process to more thoroughly license and track tens of thousands of mortgage brokers.

The effort could be expanded upon by Congressional Democrats, who are expected in 2008 to continue pushing for tighter national standards. Mortgage brokers have come under scrutiny over the past year as home loan defaults grew and housing market troubles worsened. Experts say loose licensing standards made it easy for shady operators — even those with criminal records — to work in the business.

While mortgage regulations vary dramatically from one state to another, the new system creates a uniform application for mortgage brokers and a database that banking regulators, and eventually consumers, can use to track down brokers who try to work in one state after being banned from another. Consumers should have access by next year.

Idaho, Iowa, Kentucky, Massachusetts, Nebraska, New York and Rhode Island are the initial states participating. In total, 42 state agencies — including those in Washington, D.C., and Puerto Rico — have committed to joining by the end of 2009,

The system is mandatory for brokers doing business in those states, and brokers can be penalized for operating without a license.

Lending-reform legislation does face tough odds this year, but mortgage industry consultant Howard Glaser said the consensus emerging from Democrats and Republicans is clear: More oversight of mortgage brokers is necessary.

"To have true uniformity, you would need to have a federal rule," Glaser said. "It shouldn't make a difference where you live."

The state system applies to mortgage brokers and loan officers at state-regulated banks, but not employees at nationally supervised banks. In the works since fall 2004, it was developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

A bill passed by the House in November would require all states to participate in the licensing system and would mandate criminal background checks for everyone involved in selling home loans. The bill would also mandate minimum education standards for brokers and completion of a written test.

Of the 53 state agencies that regulate mortgage lending, 41 require criminal background checks, 32 require continuing education and 17 have require some sort of testing requirement, according to the state banking supervisors group.

John Ryan, executive vice president of the banking supervisors group, said his group can't force states to strengthen their laws, but many are already doing so. "We've focused on where we could get consensus," he said.

The National Association of Mortgage Brokers fought the banking supervisors' effort, arguing that bank loan officers should be subject to the same standards.

Mortgage brokers' share of new mortgages rose from 20 percent in 1987 to more than 60 percent for much of the past decade, according to Wholesale Access, a Columbia, Md. consulting firm. But their market share is likely to slip this year, as the industry returns to more traditional loans backed by government-sponsored mortgage giants Fannie Mae and Freddie Mac. Those loans have typically been the business of mortgage banks, not brokers.